

IN THE
COURT OF CRIMINAL APPEALS
OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
5/17/2019
DEANA WILLIAMSON, CLERK

LESLIE ESTHER DIAMOND

§

§

VS.

§

CAUSE NO. PD-1299-18

§

STATE OF TEXAS

§

SECOND MOTION TO EXTEND TIME TO FILE APPELLANT'S BRIEF

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Leslie Esther Diamond, appellant, files this Second Motion To Extend Time To File Appellant's Brief, and would show as follows:

I.

A jury convicted appellant of Class A misdemeanor driving while intoxicated in cause number 1885998 in the County Criminal Court at Law Number 8 of Harris County before the Honorable Jay Karahan. The court assessed punishment at five days in jail and a \$2,000 fine on May 1, 2014. Present counsel represented her at trial. She did not appeal.

Appellant filed a post-conviction application for a writ of habeas corpus in cause number 2112570 in the trial court in 2016. Judge Karahan conducted an evidentiary hearing, made findings and conclusions, and denied relief. This appeal ensued.

The Fourteenth Court of Appeals reversed the judgment denying habeas relief

in a published opinion issued on October 23, 2018. This Court granted the State's petition for discretionary review on February 13, 2019. Diamond v. State, 561 S.W.3d 288 (Tex. App.—Houston [14th Dist.] 2018, pet. granted). Present counsel represented her in the court of appeals and represents her in this Court.

II.

The State filed its opening merits brief on April 2, 2019. Appellant's merits brief was due on May 2, 2019. Counsel obtained a 15-day extension of time to file the brief, which is due on May 17, 2019.

This Court may extend the time to file a brief if a party files a motion complying with Rule of Appellate Procedure 10.5(b). This motion is timely.

Counsel needs more time to prepare and file the brief. After the first extension was filed, he presented a speech at the UT Conference on Criminal Appeals on May 2, 2019. He prepared for and participated in a contested pretrial motions hearing in United States v. Swiencinski, et al, No. 4:18-cr-00368, in the United States District Court for the Southern District of Texas, on May 9, 2019. He also filed a reply brief in Marc Dunham v. State, No. PD-0831-18, in this Court on May 17, 2019. He is scheduled to be out-of-state for the Memorial Day weekend from May 22-26, 2019. He requests that the Court grant a final 15-day extension of time to file the brief.

CONCLUSION

Appellant requests a 15-day extension of time to file the brief.

Respectfully submitted,

/s/ Josh Schaffer

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LESLIE ESTHER DIAMOND

CERTIFICATE OF SERVICE

I served a copy of this motion on Patricia McLean, assistant district attorney for Harris County; and on Stacey Soule, State Prosecuting Attorney, by electronic service on May 17, 2019.

/s/ Josh Schaffer

Josh Schaffer